IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5046 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of

JJJJ

Family Planning Bureau, Baroda has challenged the interview process which was held for the post of Child Development Project Officer (for short `CDPO') on the ground of discrimination and arbitrariness on the part of the Officers of the Child Development Project Office and also vires of Child Development Project Officer (Female) Gujarat Public Health Services Class-II Recruitment Rules, 1983 [ hereinafter referred to as `the Rules'].

#. The petitioner has prayed for the following main reliefs as per para - 13 of the petition.

(a) admit this petition

(aa) quash and set aside the recruitment rules (At Annexure-E) for the post of Child Development Project officer (Female) holding that the same is ultra vires and unconstitutional;

(aaa) hold that the post of Child Development Project Officer falls within the Services of the Panchayat and that the same can only be filled up by making appointments from the Panchayat employees.

(b) hold that the interview process which is to be held for the post of CDPO to be illegal and arbitrary;

#. This matter was listed for admission hearing before the Division Bench of this Court [Coram : P.S.Poti, C.J. and S. B. Majmudar, J, as they then were]. The Division Bench has passed the following order on 28-10-1983.

"Rule. To be heard with Special Civil Application No.5139 of 1983.

There will be an ad-interim order that all selections and appointments to the post of Child Development Project Officer (Female) shall be subject to the result of this petition and shall be expressly stated so in the selections and appointments. This is in substitution of the earlier order directing one post to be kept vacant. "

#. Today when the matter is called out for final hearing, Mr.Baxi, learned advocate for the petitioner is present and Mr.M.A. Bukhari, learned AGP for respondent

State is also present.

#. Mr. Baxi, learned advocate for the petitioner states that this matter was admitted in 1983 and since then, he has no instructions from the petitioner, therefore, the petition may be disposed of by passing appropriate order reserving liberty in favour of the petitioner to move this Court in case of difficulty in future.

#. Mr.Bukhari, learned AGP states that as per the order passed by the Division Bench of this Court while admitting the petition, the Division Bench had directed that this matter be heard with Special Civil Application No.5139 of 1983 and the said matter was heard by the Division Bench of this Court [Coram : A.P.Ravani and D.F.Karia, JJ, as they then were]. The Division Bench of this Court has rejected the said petition by order dated February 3, 1994 saying that the question involved in the matter has become academic and therefore, the petition has become infructuous. It is further submitted by Mr.Bukhari, learned AGP that since this matter has now become infructuous, a similar order may be passed and the petition may be disposed of.

#. It is to be noted that so far as this petition is concerned, vires of rules are challenged, whereas, in that petition, vires of the rules were not challenged. However, since Mr.Baxi has no instruction from his client, it appears that the petitioner is not interested in prosecuting the matter any further.

#. In view of above state of affairs, the petition deserves to be rejected and the same is hereby rejected accordingly. Rule is discharged with no order as to costs. Interim relief granted earlier at the time of admission of the petition stands vacated. However, it is clarified that the petitioner will be at liberty to move this Court in case of difficulty in future.

Date : 7-7-2000 [A. M. Kapadia, J.]

#kailash#